

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

ROGER EUGENE FAIN,

*Plaintiff,*

SA-20-CV-01149-DAE

VS.

BOBBY LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE; JOHN B. CONNALLY UNIT ADMINISTRATION, STAFF MEMBERS, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, PHONSO RAYFORD, CASEY CELUM, RUSSELL BRILEY, SENIOR CHAPLAIN; AND RAUL ANDRADE.

*Defendants.*

## ORDER APPOINTING COUNSEL

Before the Court is the above-styled cause of action, an inmate civil rights case filed by Plaintiff Roger Eugene Fain, alleging a violation of his civil rights pursuant to 42 U.S.C. § 1983. Plaintiff filed this lawsuit *pro se* as an inmate in the custody of the Texas Department of Criminal Justice (“TDCJ”) at the John B. Connally Unit. Plaintiff alleges that as a Native American Indian by heritage, he is in the process of learning about his heritage and is growing his hair, and Defendants have harassed him and told him to cut his hair in violation of the Religious Land Use and Institutionalized Persons Act (“RLUIPA”). Plaintiff seeks injunctive relief in the form of being allowed to grow his hair in accordance with his religion.

The record reflects that Defendant Bobby Lumpkin, director of TDCJ's Criminal Institutions Division, and TDCJ have determined that the injunctive relief Plaintiff seeks in this lawsuit—to grow his hair in accordance with his Native American religious beliefs—will be permitted upon satisfactory fulfillment of several conditions. Defendants have indicated that

TDCJ's settlement offer is in the process of being communicated to Plaintiff. Defendants believe Plaintiff's lawsuit will become moot upon acceptance of the offer.

After Defendants filed their status report on settlement, the Court referred this matter to the undersigned to conduct a non-binding settlement conference/mediation [#40]. The undersigned has reviewed the referral and determined that the appointment of counsel for Plaintiff for the limited purpose of conducting the mediation is warranted. The Court will, by separate order, schedule a telephonic conference with the attorneys to schedule the mediation.

**IT IS THEREFORE ORDERED** that, pursuant to 28 U.S.C. § 1915(e)(1), the following attorney is appointed to represent Plaintiff in this case:

Christopher S. Johns  
Johns & Counsel, PLLC  
14101 Highway 290 West, Suite 400A  
Austin, Texas 78737  
512-399-3150  
[cjohns@johnsandcounsel.com](mailto:cjohns@johnsandcounsel.com)

**IT IS FURTHER ORDERED** that Mr. Johns contact Plaintiff within 14 days of this Order regarding the appointment. The Court provides appointed counsel with the following resources issued by TDCJ to assist him in his representation of Plaintiff:

TDCJ Policy on Inmate Access to Counsel:

<https://www.tdcj.texas.gov/documents/policy/BP0381.pdf>

TDCJ Attorney/Inmate Telephone Call Application:

[https://www.tdcj.texas.gov/documents/policy/I-162\\_Form.pdf](https://www.tdcj.texas.gov/documents/policy/I-162_Form.pdf)

TDCJ Attorney Visit Application

[https://www.tdcj.texas.gov/documents/policy/I-164\\_Form.pdf](https://www.tdcj.texas.gov/documents/policy/I-164_Form.pdf)

**IT IS SO ORDERED.**

SIGNED this 26th day of April, 2021.



ELIZABETH S. ("BETSY") CHESTNEY  
UNITED STATES MAGISTRATE JUDGE